

REMARKS/ARGUMENTS

Claims 1-32 remain in this application. Claims 1,2, 4-6, 9, 11, 13, 14, 16-18, and 21 have been rejected. Claims 3, 7, 8, 10, 12, 15, 19, 20, and 22-32 have been withdrawn. In view of the Examiner's earlier restriction requirement, applicant retains the right to present the withdrawn claims in a divisional application.

The Examiner has objected to the specification as allegedly failing to provide antecedent basis for the claimed subject matter. A suggestion to correct a recitation in claim 1 is made by the Examiner. With all due respect, applicant is not clear as to what correction needs to be made. Clarification or withdrawal of the objection is requested.

Claims 1,2, 4-6, 9, 11, 13, 14, 16-18, and 21 have been rejected under 35 USC § 112 second paragraph as allegedly being indefinite. The claims have been amended to remove the "for example" clause. As for the recitation, applicants urge that the ordinary artisan having the benefit of the instant claims and supporting disclosure would understand and be apprised of the scope and content of claims including the recitation of "ring-like". Reconsideration and withdrawal of the rejection is requested.

Claims 1, 2, 4, 5, 6, 16-18, and 21 have been rejected under 35 USC § 102 (b) as allegedly being anticipated by US 4,560,311 to Herb. Applicant traverses this rejection.

The Herb patent relates to an expansion dowel assembly for securing a member or part to a concrete structure or a similar receiving material. It does appear to show, at least in the embodiment of Figs. 1 and 2, a one-piece sleeve. However, this sleeve has a notch 2c providing a position of weakness to facilitate the expansion of the sleeve. The present application does not use a sleeve having such a position of weakness.

The head of the expansion member of the Herb patent has two different conical regions and these regions do not form a concave fillet in the transition region. The present claims define the concave fillet so that it is referred to as a rounded concave fillet. This has the particular advantage that it not only facilitates the dilation of the sleeve, but also results in a compact assembly, which is very important when using the fastener for its intended purpose in a piece of sheet metal or in a short bore in a plastic material.

Furthermore, Herb refers to the anchor system for use in concrete whereas the present invention relates to a fastener element, which is to be inserted into sheet metal or into a hollow bore in a plastic component.

It is urged that these differences make it clear that Herb does not anticipate the instant claims. A reference in order to be a proper anticipation must disclose all of the elements of the claims against which it is sought to be applied. For the reasons given above such is not the case for the Herb patent. Reconsideration and withdrawal of this rejection is requested.

Claims 1, 2, 4, 5, 6, 16-18 and 21 have been rejected under 35 USC § 102 (b) and allegedly being anticipated by US 4,797,044 to Velasco. Applicant respectfully disagrees with the Examiner.

Velasco discloses an anchoring system for use in concrete with a predrilled hole having an undercut. The two differences which are apparent to applicant over Velasco are that in the presently claimed invention, the head portion has a concavely rounded fillet, and the present invention use a one-piece rivet sleeve rather than a multi-piece rivet sleeve (segment 3) as shown in the Velasco reference. The concave fillet is helpful in allowing a one-piece sleeve to be deformed radially outwardly and dilated, which

requires the expenditure of a certain amount of force. In the anchoring system of the Velasco reference, the forces involved are very much less, since the ends of the segments 3 are simply bent outwardly about a weakened notch 4. The need to provide a weakened notch, of course, also ultimately weakens the strength of the installation. The present deformable sleeve has no such notch or notches.

Furthermore, the present invention related to a fastener element, which is to be inserted into a piece of sheet metal or into a shallow bore in a plastic component. Velasco relates to an anchor system for use in concrete.

It is urged that these differences make it clear that Velasco does not anticipate the instant claims. A reference in order to be a proper anticipation must disclose all of the elements of the claims against which it is sought to be applied. For the reasons given above such is not the case for the Velasco patent.

Claim 14 has been rejected under 35 USC § 103(a) as allegedly being unpatentable over Herb or Velasco further in view of US 4,943,195 to Fischer. Applicant respectfully traverses this rejection.

Assuming arguendo that Fischer teaches the element, as the Examiner alleges, this disclosure does not remedy the serious deficiencies of the Herb and Velasco patents as discussed above. It is urged that the combination of Herb or Velasco with Fischer does not make out a *prima facie* case of obviousness against present claim 14. Reconsideration and withdrawal of this rejection is respectfully requested.

Applicant urges that this application is now in condition for allowance and earnestly solicits early and favorable action by the Examiner. If the Examiner believes that issues may be resolved by a telephone interview, the Examiner is respectfully urged

to telephone the undersigned at 212-801-2116. The undersigned may also be contacted via e-mail at lubitb@gtlaw.com.

AUTHORIZATION

The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment to Deposit Account No. 50-1561.

Respectfully Submitted,

Greenberg Traurig, LLP

By:

Date: 10/31/03

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